REMARKS

Claims 1-18 are presented for examination. Claims 7-13 are found allowable subject to being rewritten in independent form.

Claim 5 has been amended to correct its dependency. Claim 19 has been added to further define the claim invention. Claim 19 recites storing a sniffed port vector having a plurality of port bits corresponding to the plurality of ports.

Claims 1-6 and 14-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kerstein in view of Murthy.

This rejection is respectfully traversed for the following reasons.

Independent claim 1 recites a multiport data communication system for transferring data packets between ports. The data communication system comprises:

-a plurality of ports for receiving and transmitting the data packets,

-a decision making engine responsive to received data packets for directing the received data packets to the ports selected for transmission of the received data packets,

The decision making engine includes:

a plurality of queuing devices corresponding to the plurality of ports for queuing data blocks representing the data packets received by the corresponding ports,

logic circuitry responsive to the plurality of queuing devices for processing the data blocks in accordance with a prescribed algorithm to determine destination information,

a forwarding circuit responsive to the logic circuitry for identifying at least one transmit port , and

a traffic capture mechanism for enabling one port of said plurality of ports to output data transferred via multiple other selected ports of said plurality of ports.

Independent claim 14 recites that in a communication network having a plurality/ of ports and a decision making engine for controlling data forwarding between the ports, a method of monitoring network activity comprises the steps of:

-placing data blocks representing received data packets in a plurality of data queues to be processed by the decision making engine,

-processing the data queues by logic circuitry in accordance with a prescribed algorithm to determine destination information,

-identifying at least one port for transmitting data packets based on the destination information,

-selecting multiple sniffed ports among the plurality of ports for monitoring the data packets transferred via the sniffed ports, and

-selecting a sniffer port among the plurality of ports to provide output of the data packets transferred via the sniffed ports.

Hence, the claimed invention enables the system to monitor traffic at multiple sniffed ports by queuing data blocks representing the data packets received by the corresponding ports, and processing the data blocks in accordance with a prescribed algorithm to determine destination information.

The Examiner admits that Kerstein does not disclose monitoring traffic at sniffed ports. Murthy is relied upon for disclosing this feature.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to provide a reason why one having ordinary skill in the art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or inference in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley, 837 F.2d 1044, 5 USPQ 2d 1434 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.d 281, 227 USPQ 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984); In re Sernaker, 702 F.2d 989, 217 USPQ 1 (Fed. Cir. 1983).

The possibility that the prior art could be modified so as to result in the combination defined by the claims would not make the modification obvious unless the prior art would have suggested the desirability of the modification. In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986).

The Examiner takes the position that it would have been obvious to modify the Kerstein system as suggested by Murthy "to reduce the complexity of the switching system."

Considering Murthy, the reference discloses a multi-port bridge using a multi-processing environment to provide monitoring of traffic by supervisory access terminal (see e.g. abstract, lines 3-7. As shown in FIG. 6, the multi-processing environment involves interaction of Ethernet controllers with main CPU 42 and I/O CPU 43 to make forwarding decisions.

As one skilled in the art of data communications would realize, the modification of the Kerstein system by introducing the multi-processing environment of Murthy would make the Kerstein system much more complex rather than reduces it complexity, as the Examiner asserts.

Accordingly, the Examiner's position is unwarranted.

Moreover, Kerstein does not address the problem of traffic sniffing, and therefore, provides no reason for one skilled in the art to modify its system by incorporating Murthy's teaching.

Further, Murthy does not teach monitoring traffic in a system that involves queuing data blocks received by multiple ports. Therefore, a combination of Kerstein and Murthy teachings would not be sufficient to one skilled in the art to suggest the claimed invention that enables monitoring traffic at multiple sniffed ports in a system involving queuing data blocks representing the data packets received by the corresponding ports, and processing the data blocks in accordance with a prescribed algorithm to determine destination information.

It is well settled that the test for obviousness is what the combined teachings of the references would have suggested to those having ordinary skill in the art. Cable Electric Products, Inc. v. Genmark, Inc., 770 F.2d 1015, 226 USPQ 881 (Fed. Cir. 1985). In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. In re Lalu, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1984).

As discussed above, the combined teachings of Kerstein and Murthy are not sufficient to arrive at the claimed invention.

Hence, the Examiner's conclusion of obviousness is unwarranted. Therefore, the rejection of claims 1-6 and 14-18 under 35 U.S.C. 103(a) as being unpatentable over Kerstein in view of Murthy is improper and should be withdrawn.

In view of the foregoing, and in summary, claims 1-19 are considered to be in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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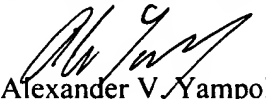

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

5. (Amended) The system of claim 3 [4], wherein said traffic capture mechanism [further] comprises a sniffed port configuration circuit for selecting the multiple sniffed ports among said plurality of ports.

19. (New) The method of claim 14, wherein the step of selecting the sniffed ports comprises storing a sniffed port vector having a plurality of port bits corresponding to the plurality of ports.